



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,906	05/01/2006	Hiroataka Haro	284133US0XPCT	4406
22850	7590	04/14/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
PALENIK, JEFFREY T				
ART UNIT		PAPER NUMBER		
1615				
NOTIFICATION DATE		DELIVERY MODE		
04/14/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com

oblonpat@oblon.com

jgardner@oblon.com



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10562906	5/1/2006	HARO ET AL.	284133US0XPCT

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

Jeffrey T. Palenik

ART UNIT	PAPER
1615	20090406

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The timely submission under 37 CFR 1.129(a) filed on 16 October 2008 is not fully responsive to the prior Office Action because Applicants have cancelled all of the originally filed claims 1-10, and filed new claims 11-21. Newly submitted claims 11-21 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the original claims 1-10 were directed to a composition of matter (e.g. an adhesion inhibiting material for a spine/spinal cord surgery). Newly submitted claims 11-21 are directed to a method for inhibiting adhesion of tissue to a spinal cord region using the composition of the cancelled claim 1. Applicant has in effect changed inventions since the claims are now directed to a new statutory category. Since Applicants have received an action on the merits for the originally presented invention (e.g. cancelled claims 1-10), this invention has been constructively elected by original presentation for prosecution on the merits. Had claims 11-21 been part of the originally submitted claims, the Examiner would have required a Restriction between the statutory categories. Accordingly, claims 11-21 are treated as having been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The Examiner respectfully directs Applicants to MPEP §704.12(b) regarding the requirements for a complete response. Since the submission appears to be a bona fide attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by Applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

/Jeffrey T. Palenik/
Examiner, Art Unit 1615

/MP WOODWARD/
Supervisory Patent Examiner, Art Unit 1615